

may file a motion with the Commission requesting a trial-type hearing if new issues are raised by a party. To prevail in such a motion, the audited person must show that a party to the shortened procedure raised one or more new issues of material fact relevant to resolution of a matter in the shortened procedure such that fundamental fairness requires a trial-type hearing to resolve the new issue or issues so raised. Parties to the shortened procedure and the Commission staff may file responses to the motion. In ruling upon the motion, the Commission may determine that some or all of the issues be litigated in a trial-type hearing.

[Order 675, 71 FR 9706, Feb. 27, 2006]

§41.4 Form and style.

Each copy of such memorandum must be complete in itself. All pertinent data should be set forth fully, and each memorandum should set out the facts and argument as prescribed for briefs in §385.706 of this chapter.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

§41.5 Verification.

The facts stated in the memorandum must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if hearing were had to testify as to the facts stated in the memorandum.

§41.6 Determination.

If no formal hearing is had the matter in issue will be determined by the Commission on the basis of the facts and arguments submitted.

§41.7 Assignment for oral hearing.

Except when there are no material facts in dispute, when a person does not consent to the shortened procedure, the Commission will assign the proceeding for hearing as provided by subpart E of part 385 of this chapter. Notwithstanding a person's not giving consent to the shortened procedure, and instead seeking assignment for hearing as provided for by subpart E of

part 385 of this chapter, the Commission will not assign the proceeding for a hearing when no material facts are in dispute. The Commission may also, in its discretion, at any stage in the proceeding, set the proceeding for hearing.

[Order 575, 60 FR 4854, Jan. 25, 1995]

§41.8 Burden of proof.

The burden of proof to justify every accounting entry shall be on the person making, authorizing, or requiring such entry.

CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

§41.10 Examination of accounts.

(a) All Major and Nonmajor public utilities and licensees not classified as Class C or Class D prior to January 1, 1984 shall secure, for the year 1968 and each year thereafter until December 31, 1975, the services of an independent certified public accountant, or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advisory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

(b) Beginning January 1, 1976, and each year thereafter, only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, will be authorized to conduct annual audits and to certify to compliance in all material respects, of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts, published accounting